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MEMORANDUM FOR THE RECORD

Event: Interview of Tom Pickard, Former Deputy Director and Acting Director of the FBI

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Participants Non-Commission: FBI Assistant General Counsel Bob Sinton

Participants – Commission: Caroline Barnes, Chris Healey, Michael Jacobson

Background

Pickard was a CPA prior to joining the FBI. His first assignment at the FBI was to the New York Field Office, where he worked on fugitive cases and bank robberies. He subsequently worked white collar crime matters in NY. From there, he was detailed for nine months to the House Appropriations Committee in Washington, D.C., where he worked on a study on transportation safety. After returning to NY, he was asked to go undercover in the "Abscam" investigation. Once this assignment was over he was assigned to the Inspection Division at FBIHQ, after which he returned to the NY Office as a supervisor and later as the ASAC, in charge of White Collar Crimes. He then was made the ASAC for violent crimes. After that, he returned to HQ as the Section Chief in the Administrative Services Division, and was responsible for payroll/voucher matters, and personnel recruiting. From there, he returned yet again to the NY Office, first, as the SAC for Administration and then as the SAC for National Security starting in 1993. In late 1996, he became the Assistant Director of the Washington Field Office, and soon after he transferred to FBIHQ to assume the position of AD of the Criminal Division. On December 1, 1999, he was appointed as the Deputy Director of the FBI. He was in this position until his retirement from the FBI on November 30, 2001. Pickard served as the acting Director of the FBI from June 25, 2001-September 4, 2001, when Director Mueller took over.

Priorities as SAC, National Security

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When Director Freeh informed him that he was being transferred to the National Security Branch in the NY office, he pointed out to the Director that he had no national security experience. Freeh said that that was not a problem, since he wanted Pickard in place to "shake things up." Freeh told Pickard that they had a penetration of the FBI, and that resolving this penetration was his number one task. He informed Pickard that if he did not solve the case fairly quickly that he would remove him. Pickard noted they did successfully identify the perpetrator (Earl Pitts). At the time, they also had the Blind Shaikh's trial going on, and there were constant terrorist threats. Pickard said that as the SAC for National Security, there were "constant fires" in both CT and CI, including Earl Pitts and Cuban espionage matters, and the WTC terrorist trials. He estimated that he divided his time fairly equally between CI and CT matters. It was up to him as the SAC, Pickard noted, to set the office's priorities, and determine how the resources were allocated between CI and CT. HQ would keep them informed on what was going on with the budget, and how many additional spots they might get.

When he was appointed to this position as SAC National Security, he did receive some training. He met with Section Chiefs and Unit Chiefs in the National Security Division at HQ and Quantico for about a week, where he had some meetings and briefings on CT and CI, and he was also given a great deal of information to read on the subject.

NY JTTF

The JTTF was the "best thing" that NY had going in the CT arena. It enabled them to move information very quickly and for the importance of information to be recognized. For example, the President was visiting NY and had an undisclosed meeting in the city. The FBI was not aware of the meeting location. At the same time, the JTTF had received notice of a suspicious package or activity in that same area. The Secret Service agent on the JTTF, who was aware of the meeting, saw the information and quickly realized that it was in the same location as the President.

The JTTF was only a part of the CT program. There were other squads working IT which were not part of the JTTFs. The JTTF squads were more focused toward events occurring in NYC. Sometimes, agencies did not send their best personnel to the JTTF. Others did send their best. There also were some people, like the NYPD detectives, who were not used to working long-term investigations, so it took some time for them to become accustomed to these type of investigations. When he arrived in NY was probably the low point for the JTTF. Despite the fact that the WTC attack had occurred, NYPD was pulling back detectives from the JTTF because they didn't see any benefit to being a part of it. The focus was on the ongoing trials and the resulting threats, and so they withdrew personnel.

Most of the federal agencies had 1 or 2 people assigned to the JTTF. For the most part, this was all that these other agencies could afford to send. As a result, the NYPD personnel constituted the bulk of the other agency representatives on the JTTFs. ATF, USSS, USPS, FAA, and INS served on the JTTF, as well as officials from the US

Marshals Service and the NY Port Authority. INS agents were also on the IT squads themselves. INS was a "big player" and was good about assigning their personnel to the FBI.

Regarding some of the threats, a number were directed at the Federal Judges. The judges would become very upset if they hadn't been told about a direct threat to them. So generally, the FBI would tell the judge, and then work with the Marshals Service to beef up security around that particular individual.

First World Trade Center attack

When Pickard became SAC for National Security, Bin Ladin was being talked about. He was considered a radical and "a player." Pickard is not so sure about all of these analyses now tying Bin Ladin so closely to Ramzi Yousef at the time of the first World Trade Center attack. He doesn't know whether it's true or not. Pickard did note that the first World Trade Center attack was planned and executed for about \$25,000 total. When Yousef was connected to the Manila Air plot, it struck Pickard that Yousef was now much better financed. He had been traveling in the far East, and it appeared that he had a lot more resources. It was then that the FBI began to see Yousef as part of a larger group. At the time of the first World Trade Center attack, the FBI still just thought the network was just Ramzi Yousef and his handful of associates. The first World Trade Center attack did raise the US Government's level of awareness on CT, and the FBI did respond.

DOJ's approach to CT under Reno

The Federal Government's policy on terrorism during Reno's tenure was a law enforcement policy. The DOJ under Reno was committed to a law enforcement response to terrorism. Reno and Gorelick, in his view, were the architects of this approach. Reno did not want to go outside of these boundaries, and did not want to use the military to counter terrorism. Pickard suggested that Reno did not want to ask the military for assistance on FBI renditions. Pickard stated that his own view as to when the first time military response would have been appropriate was after the USS Cole attack, but he didn't have any discussions with Reno on this subject. Berger wouldn't pull the trigger when there were credible reports on where Bin Ladin was located.

Pickard stated that they had some heated arguments with Reno on CT matters, often about her interpretation of the FISA law. Pickard was troubled by the fact that OIPR was proud of the fact that they had never been turned down for a FISA. Though noting that he is not an attorney, he thinks that they should have been prepared to lose a few (note: implying that they did not push the limits). He would have regular meetings with Reno. He recalled several instances where Reno would not let them apply for a FISA. DOJ had a higher and higher standard for FISA, and Reno was the one driving this higher standard because she by statute was the one who signed the FISA packages. In addition, Pickard stated that the FISA process at DOJ was very slow. There were

holdups with OIPR and the Attorney General. The FBI agents working these cases grew more and more frustrated developing the probable cause, and after a while, the attitude becomes, "why bother applying for one."

Pickard did say that Reno actually read the FISA pleadings thoroughly. The FBI would get calls from her about FISA packages, often on Friday evenings. Her work ethic was outstanding.

The DOJ had a risk averse culture. Pickard compared this to what happened at the IRS. Congress spent the early 1990s beating up IRS agents for committing various violations collecting revenues. This caused a chilling effect on the agency. He then hears Senator Grassley complaining that the IRS isn't collecting taxes, when it's because Congress made them risk averse in the first place. The FBI agents were gun shy pre 9/11. The CIA became risk averse when it came to developing human sources. They had to ponder whether or not their sources had committed war crimes. From his own experiences in running sources, Pickard said that sources are going to come with baggage. All of his sources were "nightmares." If you want good sources, that's what you have to deal with. Pickard is not sure what the DOJ risk aversion stemmed from, but he did not see them as aggressive.

FISA Court

Judge Lamberth also called Louis Freeh regularly on FISA matters. He called Freeh on one occasion to "chew him out" and let him know that he had banned an FBI agent from the FISA court. This certainly had a chilling affect on FBI agents' willingness to apply for FISAs, in Pickard's view.

The wall

With regard to the wall, they got instructions on how information should be handled either on FISA orders or through instructions from FBIHQ. Some pieces of information were to be handled only for intelligence purposes. It got a little fuzzy either on the JTTFs (compared to the counterintelligence arena) in terms of how to handle the information because the JTTF member did have a lot of interaction with criminal squads.

The wall was a problem in their investigations. They couldn't really look at the whole picture as a result of the wall. They could be pursuing a CT case against someone, and not know that a criminal squad was investigating the target for criminal violations. The criminal squad might decide not to pursue the case because they had other priorities, or because the violations were too minor, not knowing of the possible terrorism links. The CT agents, on the other hand, were not going to the criminal squads in the office for information on their CT subjects, because they were precluded from doing so. Chief Bratton used to have a "no broken windows" strategy to fighting crime in NY. The FBI should have adopted an approach more similar to this for fighting terrorism.

USS Cole Investigation

Right after the USS Cole bombing, the FBI wanted to get agents in there as soon as possible. They knew from previous investigations how important it was to try and preserve the physical evidence. The FBI learned from the East Africa bombings that al-Qa'ida was not infallible. They do make mistakes and the FBI can learn from the forensic evidence. Ambassador Bodine though only wanted a handful of FBI agents in the country. Pickard thinks that this is because she wanted to be in control. In his opinion, she was more of an advocate for the Yemeni Government than she was for the US. Pickard was aware that there were some sympathizers for Bin Ladin in the Yemeni police, but they could have dealt with this situation. The FBI had done some training with the Yemeni police, and knew how to deal with them. Another problem was that there were serious threats against the FBI personnel working in Yemen. Pickard met several times with Bodine and Barry Mawn (AD of NY at the time) on these matters. One of these meetings took place on April 26, 2001 in Washington, DC. This meeting was an effort to get FBI agents back in the country. Pickard also raised this matter with Thomas Pickering at State Department. Pickering listened and indicated that he would raise the matter with Albright. Pickard thinks that Director Freeh talked to Albright about this situation as well. He thinks that Albright backed Bodine in this dispute, though he acknowledged that FBI agents eventually returned to Yemen to continue the investigation.

They were pretty confident early on that the attack was perpetrated by al-Qa'ida. Within the first 24 hours, there were a number of people who had tied the attack to UBL, but he wanted to try and slow the pace of this somewhat and to really see what evidence they had. He was more comfortable with this assessment 2-3 days into the investigation. The level of sophistication of the attack, and the reports on the type of explosives used, the rental of safe houses, and the surveillances of ships prior to the attack, pointed to UBL. He doesn't recall when they connected specific individuals connected to the attack to UBL.

Briefings for White House in Bush Administration

Pickard and others from the FBI briefed Vice President Cheney on March 16, 2001 about IT matters. Ashcroft and Mueller (as the acting DAG) were in attendance as well. The FBI told Cheney that there were UBL supporters in the US. Cheney was "shocked" and asked Pickard why they didn't arrest these individuals. Pickard told Cheney that they didn't have probable cause that laws were being violated.

Cheney wanted to hear about CI and CT issues. The briefing lasted a few hours. He scheduled a follow up briefing and came back with Ashcroft for a subsequent briefing in May, 2001. Cheney was interested in CT, CI, and the FBI's technology issues (the FBI's computer system).

He and Freeh briefed Dr. Rice and Steve Hadley on January 26th, 2001 on CT and CI issues. There was more focus on CI during the briefing, since there was a very sensitive matter they had to bring to their attention (not Hanssen, he noted). This session

was more of a meet and greet. He doesn't think that they specifically brought up Bin Ladin. Rice and Hadley seemed interested in the subject of the meeting.

In February 2001, they briefed Dr. Rice again, this time on the Khobar Towers investigation. There had been some developments, and it looked like there might be some indictments. They did talk about Bin Ladin during this meeting, but the focus was on Khobar Towers.

Source Development

Pickard was asked about the removal of source development as a critical element for agents in the mid 1990s. He said that one of the problems was that many FBI managers had instructed their agents that they had to have a certain number of sources. As a result, the FBI had a lot of sources who were not worthwhile. This was an effort to scale back on quantity, and to focus on quality of sources. They didn't want agents to get punished for not having sources. He would rather reward good source developers. He thinks that this change was a good idea overall. It's better to use the carrot than the stick for agents with regard to source development. Pickard thinks this policy helped to cull out non-productive sources, but asserted that source development is an area management constantly needs to monitor. Source development is difficult and not all agents are good at it. They do need to reward people for source development. Too many people are risk averse, and they need to know that they will be backed.

Evaluating the SAC/Field Office Performance

As the Deputy Director, source development is one of the things he would look at in rating the SACs. He had a call with each SAC twice a year to judge his or her performance. He prepped with his staff for these calls and included the heads of the division in the calls. Pickard notes that the SACs' bonuses were based on the results of this call. Pickard would ask the SACs about CT matters based on a checklist that Watson had put together. As far as whether the SACs were concerned about the terrorist threat in their territory, it depended on the territory. For example, the SAC in Milwaukee might not be concerned, while other SACs would be. The SACs in territories where special events were going to occur, such as the Olympics in Salt Lake, were certainly aware of the terrorist threat. It's really an education process for the SACs. Pickard acknowledged that it's easier to respond to bank robberies than to maintain focus on a suspected UBL supporter. He said that he did penalize some SACs who were not performing.

FBI knowledge of al-Qa'ida pre 9/11

In terms of whether Dick Clarke's comments on the FBI field offices' knowledge of al-Qa'ida were accurate, Pickard doesn't know of any offices other than NY that Clarke visited. He doesn't think that any of his points are fair. Pickard says Clarke just trying to build his business and get sounds bites out there.

DOJ prioritization of CT under Ashcroft

When the new Administration came in, they tried to make Ashcroft aware of the FBI's priorities and issues. Freeh told all of the Assistant Directors to get up-to-date for the transition and to prepare materials on all of their divisions. Pickard knows that Freeh was trying to get a meeting with Ashcroft. They ended up briefing acting Deputy Attorney General Mueller on FBI issues, which included CT. At the time, Mueller had little CT or CI experience.

Ashcroft attended the FBI briefings of Vice President Cheney. Ashcroft, in Pickard's opinion, was more concerned about his security detail than these other issues. Ashcroft was not happy because of the tax implications of being driven by his security detail. He found out that he had to pay \$5,000-6,000 a year for taxes on the government car, and he was incensed about it. He told Pickard (as a CPA) to figure out a way for him to get around it.

As discussed above, in March 2001, Cheney came to FBIHQ for a briefing, wanting to hear about CI, CT, and technology issues. Scooter Libby was with him. Ashcroft and Mueller were present at the meeting as well. Ashcroft said that he wanted these people arrested. The problem, Pickard noted, was that there was no probable cause to arrest these people.

Pickard mentioned more than once that Ashcroft's priorities were guns, drugs, and civil rights. The FBI tried to educate him. In June 2001, Ashcroft brought him in and told him that he would be the acting FBI Director. He told Pickard that he didn't want any surprises, and wanted to meet with him weekly while he was acting Director. There were 7-8 meetings in all. Pickard would always start each meeting discussing either CT or CI. At the time, the threat level was going up, and was very high. Watson had come to him and said that the CIA was very concerned that there would be an attack. Pickard told the AG this fact repeatedly in these meetings. Pickard said that Ashcroft told him that he did not want to hear about this anymore. Pickard recommended that Ashcroft sit down and meet with George Tenet on the topic.

Pickard, Tenet and John McLaughlin were having weekly phone calls at the time. They were growing concerned about the CT threat. Pickard kept on trying to get Ashcroft to focus on CT. Pickard brought up UBL at the first meeting, telling Ashcroft that the threat level was high, and that the CIA was worried, because of the increased information. They also noted that there had been a time lag between the Embassy bombings and the USS Cole attack, and that the same amount of time had passed since the Cole attack. It was about time, Pickard told Ashcroft, for UBL to mount another operation. In the second meeting, Pickard brought up the threat again and the need for more CT resources. Ashcroft told Pickard that he did not want to hear about it anymore in the future.

In the meantime, Ashcroft had denied the FBI's request for additional funding for CT. In August, Pickard appealed DOJ's denial. He approached Ashcroft and asked him

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to reconsider the denial, in light of the continuing high threat level. On September 10, 2001, Ashcroft sent a letter to Pickard denying his request. Pickard received this letter on September 12, 2001.

When the new Administration took over in January 2001, DOJ and Ashcroft took a different approach to dealing with the FBI than Janet Reno had. Reno was a hands on manager, and had a fantastic work ethic. She was very focused on issues dealing with the FBI. If an agent got hurt, she called. Ashcroft was hands off. Director Freeh tried a number of times to brief Ashcroft on the FBI, but this was not arranged with Pickard present. Ashcroft only called the FBI if something was in the paper or if there was a "burning issue." The exception to this was that he was always calling the FBI about the gun check issue. He didn't like for the FBI to maintain records on individuals purchasing guns for a certain length of time. The FBI wanted to maintain these records for audit purposes, to determine if the FBI had done its job and if the gun dealer had done his. However, Ashcroft did not want these records kept for so long. As far as why he wanted to meet with Pickard every week after Pickard became the acting Director, Pickard said that maybe it was because Ashcroft did not know Pickard well. He might have been surprised that Freeh left. There was also the missing guns and laptops and the McVeigh issue going on, and maybe he thought the FBI need more supervision. Ashcroft wanted to know what cases were going to break in the media. He was not interested in CT-related issues.

Pickard was asked about the report about why Ashcroft flew on a private jet, and the reasons why he would not fly commercial (prior to 9/11). Pickard would not comment on it. When asked why he wouldn't comment, he responded that the situation made his blood pressure rise, and he didn't want to comment. He noted though that Ashcroft wanted the Government to purchase the house next to his, for security reasons.

CIA and NSA analytic ability

9/11 Classified Information

FBI Analysis

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Pickard thought that it was important for the FBI to improve its analytic capability. For many years, the FBI didn't need to share information between field offices. This was something that had changed, probably in the 1970s when they were working organized crime cases. The FBI started to need at that point a better base to analyze and review information. When he was head of the Criminal Division, the analysts had to produce a product and give a presentation before they could be promoted to the next grade.

Pickard thought that the Investigative Services Division concept was a good one. The analysts from the different divisions could learn from each other. The people opposed to the concept were just displeased that they would no longer have as many people to do their grunt work (tasks like copying and moving furniture) if the analysts were assigned to a different division. The point though of creating a new division was to actually have the analysts doing analysis.

The FBI response to pre-Millennium Threat

The FBI was working on the Millennium plans before he became the Deputy Director. In the six weeks prior to the Millennium, they were working the field offices pretty hard. They expected something to happen on New Year's Eve. They wanted to know how the field offices planned to handle the Millennium threat and what their capabilities were, particularly in terms of responding to a chemical or biological attack. Until that point, they had been dealing with WMD primarily as a CI threat, and they now had to deal with it as a CT threat. They didn't have a great chem/bio response capability in the 1990s, in part since they hadn't had training sessions for the SACs. They stressed this issue with SACs at the annual conferences. They required that each field office had a WMD coordinator, and they set up a unit at HQ to deal with this issue. The FBI also engaged in training with the military on this issue. Pickard also arranged with the DoD for an exercise for the HRT. He ordered a no notice immediate response drill for the HRT, in which they had to respond to a blister agent. They had to go to a military base, suit up, etc, and if they didn't put on their suits correctly, they were going to get hurt. Prior to December 31, 1999, the FBI was also trying to go up on FISAs, as many as they could. They were working with NSA and CIA to do this.

Pickard recalls that they were worried about a "spectacular attack" around the Millennium. They really didn't know whether the attack might be overseas or in the U.S. After Ahmed Ressam was picked up, the threat level got raised even higher. He ordered all of the SACs to be in their offices the night of the Millennium. All of the SWAT, WMD, and evidence response teams were on notice, and all had to be ready to go anywhere in the world. Pickard spent the night at SIOC with Reno and Holder. In the period leading up to the Millennium, he spoke to them a few times a week, and then after Ressam was picked up, they spoke every day. In the Ressam case, he was getting daily updates from the SAC and ASACs in Seattle on the developments during the investigation.

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After the Millennium Pickard realized that they needed to focus more on CT. They realized what a limited capability they had to deal with a WMD attack. The FBI didn't know what Ressam was up to, but the East Africa bombings had occurred, so the FBI's focus was on UBL/Al-Qa'ida.

Relationship with CIA

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There has been a lot about the CIA and FBI not sharing information. However, Tenet and Freeh were on the phone 2 or 3 times a week. In the wake of the Hanssen case, Freeh asked Tenet to send over his best security person to revamp the FBI's security program. He sent over [REDACTED] Pickard always had a senior CIA person on his staff while he was the Deputy Director. He heard everything Pickard did at his briefings. Pickard also had MacGaffin on his staff for a short time. He said that MacGaffin had a lot of ideas but didn't know anything about implementation. MacGaffin was "ideas incorporated" in Pickard's opinion. Overall, [REDACTED] Pickard had [REDACTED] on his staff as well. In CTD, the FBI had [REDACTED] There were FBI agents at CIA working both CI and CT as well.

The most difficult thing with regard to information sharing is trying to figure out what information will actually be important to another agency. You need to have constant interaction for this to happen. Pickard does not think that this problem can be solved by technology alone.

Malaysia Meeting

Pickard does not remember being briefed on the "Malaysia meeting" in the time frame that it occurred. He may have been but he doesn't remember. He recalls being briefed on it by Dale Watson in the spring of 2001. Watson told him that the CIA had been trying to "grapple" with the meeting and was starting to make connections on some of the players who had attended the meeting. The CIA had identified more and more about the individuals at the meeting, and they were figuring out that there were bigger and bigger players at the meeting. The CIA was pulling out all of the stops, Watson said, to find out what had happened at the meeting, and what they might have been plotting.

9/11 Classified Information

[REDACTED] He recalls that the CIA analysis for the threat was focused on Southeast Asia. The Government as a whole thought that the Malaysia meeting was a prelude to an attack in SE Asia. Other than the Ressam capture, there were no indications that we were going to get attacked here. They didn't have a lot to go on, though.

9/11 Classified Information

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Watson told Pickard that the occurrence of the Malaysia meeting was still being "closely held." According to Pickard, he thought that it was the concern about the meeting that was driving the higher threat levels. Pickard does not recall whether he heard about the meeting again before 9/11.

He doesn't think that he briefed Ashcroft on the Malaysia meeting. He was supposed to closely hold the information about the meeting. He didn't have the authority to brief Ashcroft on this. They had been told by the CIA not to discuss the meeting. This was one of the reasons that he wanted Ashcroft to meet with Tenet, so that Tenet could fill him in on what the CIA knew.

Pickard does not recall briefing Freeh on the Malaysia meeting. He would have told Watson to brief him. This was Watson's job to brief on a specific matter. He's not even sure that Director Freeh was still there when this occurred.

Spring/Summer of 2001

During one of the conference calls with all of the SACs, he told them to be alert. They were not told that there was a heightened threat though. In the summer of 2001, there were also other issues going on. The missing FBI laptops and weapons and the McVeigh execution were in the news. Pickard was regularly on the phone with the SACs during this time frame, probably every other week. He told the SACs to ignore all of the news about the laptops, McVeigh documents, etc. and that he would handle issues like this. Some of them had spoken in public about these issues, and he told them to stop and that he would handle this. He told them to get back to working cases. In addition, they didn't have a director at the time. They were waiting to hear who the director might be, and wondering what the new priorities might be. This distraction ended in late July, when Mueller was nominated. Also the AG had recommended that Arthur Anderson conduct a review of the FBI. In Pickard's opinion, the report, which he believes was to be done by September 1, 2001, in time for Mueller's arrival, is not worth reading. By August, the turmoil had basically ended. McVeigh had been executed and the guns/laptops issue had died down.

Al-Qa'ida's evolution

After the embassy bombings and the USS Cole attack, al-Qa'ida was definitely in their focus. Al-Qa'ida had learned a lot in each successive attack. They had learned from the embassy bombing that the FBI was good at exploiting physical evidence, and cell phones. In the Cole attack, they did not rent the houses under their true name and they didn't use cell phones. The FBI had seen how methodical al-Qa'ida was in its planning, and that they adhered strictly to the "need to know" provision. Al-Qa'ida's communication security was good, and operatives usually came from outside the target location.

When Pickard left the FBI, it did not appear that al-Qa'ida had much of an infrastructure here. It's hard for the FBI to attack them, when there's not much here. Pickard expressed the view that it would be hard for agents to keep working the al-Qa'ida target in the coming years if there isn't an infrastructure and operatives and again sent from abroad.

Mueller's arrival at FBI: September 4, 2001-September 10, 2001

The week before 9/11 (Mueller's first week in office), he had all of the ADs spend the entire week briefing him on the FBI's capabilities, and on important cases. This included the emergency capabilities of the FBI, such as HRT, and classified materials. Before Mueller was sworn in, Pickard asked him if he wanted to be briefed on the classified matters. Mueller said no, and just to send him unclassified briefing material at that point, in part because he was about to undergo surgery and could only take unclassified information with him to the hospital. They sent him things like a summary of CJIS, and information on FBI career development. By the time that Mueller arrived, Pickard had already told him that he would be retiring.

When Mueller took over, there was no reason to think that the heightened threat period had passed. Pickard didn't sit in on Watson's briefing of Mueller. When Mueller was acting DAG, they provided him with briefings on CT and CI. He was very interested. Mueller also sat in on the meetings with Cheney. Mueller knew that CT was a priority when he took over. He wanted to learn and know more about it. When he was the USAO in San Francisco, he didn't realize all of the national security investigations that were going on in that area. He asked why he didn't know, and they told him that he had no need to know at the time. Pickard does not know whether Mueller was briefed by Tenet pre 9/11. On Monday, September 10th, they began briefing Mueller on non-classified materials (criminal cases, etc).

The Day of September 11th, 2001

On Tuesday morning, September 11th, Pickard had just completed his own staff meeting. Then he went to a briefing with all of the ADs. The Director was in SIOC getting a briefing. Pickard's secretary came in and told him that a plane had just hit the World Trade Center. He turned on the TV. He then called the assistant to the Assistant Director in NY. He asked her what the weather was, and she said it was clear. He then asked the Director's secretary to get him out of SIOC, so he could join the call. Mueller came into his office at about 9 am. They saw a plane hit the World Trade Center on TV, and they thought that it was just footage from the first plane. Then the announcer said it was a second plane and they realized it was terrorism. The Director asked Pickard what they should do. Pickard said they needed to open SIOC and to bring in all of the other agencies. They were also trying to manage all of these other reports coming in, such as the "bombing" at the State Department, and the suspicious truck near the White House. In SIOC, Pickard recalled the FAA representative saying a plane was headed to DC.

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They were having trouble getting in touch with the AG. The AG was on a government jet at the time, and they had to turn him around. The Director then spoke to the President. Pickard was on the phone with the FAA Administrator and with someone for NORAD. The FAA Administrator told Pickard that they had grounded all of the planes and that the incoming planes from Europe were going to land in Canada. He asked the person from NORAD what kind of fighter protection they had over the U.S. He can't recall who the person was from NORAD, but the name "Eberhart" does ring a bell.

The PENTTBOM investigation

The Director made him the case agent on PENTTBOM.

They had SIOC up and running during this period 24/7. One of the things they were trying to do was secure any crime scene. The SAC for Boston was away so he told the SAC for New Haven to get up there. He told SAC Pittsburgh to go to the crash site. They were trying to figure out what needed to be addressed and what did not.

9/11 Classified Information

They also told agents to contact all of their sources who might have information and to shift resources to CT where needed. They brought back people to HQ who had expertise in these matters, such as Debbie Stafford who had run the UBL Unit at HQ.

During the first day, they had 3-4 conference calls with the SACs. For a while, there were 3 a day, and eventually it dipped to two a day.

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After 9/11, they had the charge to round up whoever might have information on the attacks. If the person were out of status, they would turn the person over to the INS. Pickard had conversations with the Assistant Director at INS about this. They wanted to clear and release people as soon as possible. The process was difficult though, because they didn't know a lot about these people. They were trying to figure out where the hijackers had been and with whom they had associated. It took days before they even

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realized that there were only 19 hijackers. The FBI the CIA and host governments were all trying to figure out what they could about these detained individuals.

When Pickard left the FBI in November 2001, they knew who the hijackers were, how and how the attack had happened. The hijackers had hijacked the planes by holding up "box cutters" to either the crew or the passengers. They hadn't taken surveillance flights. They had limited flying ability. The FBI was also starting to get a handle on the funding of the plot. In the same time period was the Anthrax attack. They were also focusing on how to prevent the next attack.

"Connecting the dots:" Phoenix EC, Moussaoui, Hazmi/Midhar

Pre 9/11, prevention was the number one focus of the FBI's CT program. They were always looking to do that. He doesn't know whether they could have developed any information to prevent 9/11. Moussaoui and the Phoenix EC did not come to his attention until after 9/11. If the Phoenix EC had come to his attention in late July, he's not sure what they could have done. It's a nice theory. If they looked into flight training, they would have discovered that the US is where many foreign pilots come to get trained because it's cheaper. They didn't have anything to tell the FAA at this point other than a large number of Arabs were engaged in flight training. In hindsight, he can think of a dozen things they could have done. It would have been nice. If he had known about Moussaoui, he would have asked what his status was, and if they had identified his associates. They would have proceeded from there. He wouldn't have expected either of these things to come to his attention. Mueller sometimes reads 302s, but he did not. He wanted the managers to be managers, and only bring issues to him that they couldn't resolve.

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They didn't have probable cause to arrest them. They didn't know what happened at the Malaysia meeting. He's not sure that following them would have led to all 19. He doesn't think that they were all together at any one time. The FBI would have wanted to see with whom the hijackers were associating and whether there was an infrastructure in place to support them. He thinks that the FBI would have ended up surveilling them onto the plane. They would have called ahead to LA and told them to watch for them on the other end. They might have interviewed them, but he thinks they would have decided it would be best not to reveal to the targets that the FBI was on to them.

Chief of Police Complaints/NYPD Intelligence Division

He worked with Ed Norris when he was at NYPD intelligence. At the time, NYPD intelligence basically just escorted celebrities around town. It wasn't a real intelligence division. They just knew where the parades were and where the celebrities were.

9/11 Personal Privacy

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"Rule of Law" pre and post 9/11

The dynamics have changed since 9/11. Pre 9/11, the rule of law was in effect. CT policy didn't change when the Bush Administration took office. Pickard said he saw no sense of urgency in the Bush Administration before 9/11. CT was still being treated like a law enforcement problem. Nothing had really changed in terms of the overall US Government's response to CT. Noone told him that there would be any type of military response to CT until after 9/11.

Pickard exploded and said that there is no rule of law any more. The rule of law is "off." US citizens are being detained by the military and are not allowed to consult with an attorney. This is unprecedented since Americans were detained a generation ago in World War 2. As far as he knows though, the FBI is still operating under the rule of law. With Reno as the Attorney General, they had to go through so many hoops just to get a FISA. He would like to hear her commentary on this current situation. After H. Rapp Brown was arrested, he spit at an FBI agent. The FBI agent spit back. Reno wanted the FBI agent fired for this.

Creation of a new agency

Pickard thinks that the FBI is up to the task of working CT and CI. Agents are now more enthusiastic about working CT matters. One of the difficulties for the FBI is that most of the intelligence is from overseas. It's where al-Qa'ida operates. As far as he knows, there was no US infrastructure supporting the 19 hijackers. The intelligence developed overseas has to be used by the FBI tactically in the U.S. The only way to change this would be to create an agency with responsibility for both foreign and domestic. He doesn't think that Congress would let the CIA take over responsibility for domestic intelligence. Pickard said that a new agency would further complicate how state and local law enforcement and foreign services interact with federal law enforcement.

Pickard stated that MacGaffin has great ideas, but no idea how to implement anything. He doesn't think about how to staff a new agency or where the field resources will come from. A separate agency could work if you have unlimited resources. Right now, though, the FBI has people scattered throughout the country. If you need something done in Montana, the FBI can get it done in Montana, and you'll have some idea how the FBI agent there will go about performing the task. If this new agency had to liaise with another agency to get something like this done, this would be difficult. If you were starting from scratch the new agency idea might make sense, but it's not the right solution given where we are now.

Separate Career Service at FBI

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As far as a separate career track at the FBI, he thinks that you do need to have a nucleus of people who are steeped in CT issues. But it's always best in his experience, to have a mix of personnel, some with experience and some fresh faces to look at an issue anew. A lot of people were not happy when he took over as the SAC for National Security in NY, since he had no prior CT or CI experience. But in the end, he caught the penetration of the Bureau. Basically, for any program you need to have good investigators and then give them the right training and education. He said that he enjoyed moving around the Bureau throughout his career; he feel that it kept him "sharp."

Current FBI reforms

Pickard is not familiar with the current FBI reforms. He does know Maureen Baginski and thinks that she is very good. He had good relations with the NSA Deputy Director. He brought some NSA analysts to the

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This really pumped them up.

FBI Language Services Program

The FBI never had enough translators. They could always use more. He doesn't know how the FBI is able to handle the huge volume of documents they're getting now from Afghanistan and Iraq. They tried to upgrade the language specialists' equipment. They moved from reel to reel to digital. A hard issue was trying to figure out what to do with linguists from languages no longer as needed, such as German, after the fall of the wall. It takes too long to send people to language school to learn a new language, so that's not really a solution.

FBI Information Technology

Pickard was not familiar with the February 2000 Reno memo. The FBI felt "handcuffed" by the state of its information technology. They knew that they were not moving around information quickly enough. Freeh became frustrated with Congress on this. They were just giving the FBI money in pieces for the system. Finally, Freeh reached out and called the Chairman of IBM. He asked him whether they had someone who could assist the FBI in that regard. As a result, Bob Dies came over. He came, looked, and then briefed Congress on what he saw. He too got frustrated with Congress on this issue. He felt that some of the members were trying to push systems from their home districts on the FBI and they weren't necessarily what the FBI needed.

A lot of pundits say that Freeh was not computer savvy. This is not true. He used computers at home with his kids. He just didn't like to work like this. He liked seeing things in hard copy. He also didn't use email because he didn't want to send casual replies. He was very careful about any form of communication, written or electronic, because it was permanent.

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Pickard thinks that basically the IT problems were a funding issue. When the FBI was looking for money, Congress was coming up against its spending limits. No money, he noted, that was appropriated for technology was diverted elsewhere. This would have necessitated a reprogramming, and would have required DOJ, and ultimately Congressional approval.

Legal Attaches

The Legats were always complaining about their limited funding. The entire Legat program had only \$15,000 for entertaining. [REDACTED] 9/11 Classified Information

[REDACTED] There are so few FBI agents assigned to Legal Attache Offices that there is only so much they can do.

"Carnivore"

What happened with the Carnivore system was a real tragedy. They knew that UBL was very competent in using computers. This system would have helped them track his emails. After 9/11, they saw that the hijackers had used the Internet and emails. Carnivore was dead on arrival. They picked the wrong name.

The U.S. government has to work more to intercept al-Qa'ida email communications. Al-Qa'ida members are careful on the phones. He noted that even back in 1995, Ramzi Yousef had an encrypted lap top computer. Only the intelligence community had those types of things back then.

Consolidation of Federal Law Enforcement Agencies

Pickard thinks that there are too many federal law enforcement agencies right now, and that some of them should be consolidated. This makes connecting the dots hard and frustrates the state and local government agencies. The last thing they need is another agency to do CT. That would be a recipe for disaster. Everyone is trying to expand their turf and this doesn't help.

Foreign Law Enforcement

Some of the foreign entities the FBI deal with are woefully underequipped. For example, [REDACTED] 9/11 Law Enforcement Sensitive

[REDACTED] 9/11 Law Enforcement Sensitive

The FBI had to bring their own.

[REDACTED] 9/11 Law Enforcement Sensitive

There are no borders in CT. [REDACTED] The FBI must work with foreign law enforcement, providing training and resources. These relationships pay off.

Terrorist Financing

Pickard thinks that the efforts to go after the funding are admirable. They tried this with the IRA in the 1970s. It was difficult because the IRA didn't maintain real

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records, so you could figure out where the money was going. It might be a better approach for law enforcement to go after terrorists' crimes which generate money, like the baby formula scam, or cigarette smuggling. This will reduce funding available to terrorists and be easier than trying to track the finances of charitable organizations.

Assessing CI/CT Performance

Pickard was always looking for metrics in this area—it's hard. You need to look at what level of intelligence you're getting and how much of it is from human sources and how much is from other (i.e. electronic) sources. You need a balance of both, and don't want to rely too much on one over the other. You can also look at the number of analysts and translators, but that's too easy. It's easier to measure success in criminal cases.